

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF APPALACHIAN CELLULAR GENERAL)	
PARTNERSHIP FOR A CERTIFICATE OF PUBLIC)	CASE NO.
CONVENIENCE AND NECESSITY TO CONSTRUCT AND)	95-213
OPERATE A CELLULAR CELL SITE AT SANDY HOOK,)	
ELLIOTT COUNTY, KENTUCKY)	

O R D E R

On May 23, 1995, Appalachian Cellular General Partnership ("Appalachian Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 9 ("RSA No. 9"). RSA No. 9 includes Elliott, Floyd, Johnson, Lawrence, Magoffin, Martin, Morgan, and Pike counties. Appalachian Cellular has requested authorization to construct a cell site in Elliott County. Appalachian Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 9 in Case No. 91-073.¹

The proposed cell site consists of a 180-foot or less self-supporting antenna tower to be located approximately three-quarters of a mile east of Highway 719 and Highway 32, Sandy Hook, Elliott County, Kentucky ("the Sandy Hook cell site"). The coordinates for

¹ Case No. 91-073, The Application of Appalachian Cellular General Partnership for a Certificate of Public Convenience and Necessity to Construct and Operate Cellular Telephone Facilities to Serve RSA #9 in Kentucky.

the Sandy Hook cell site are North Latitude 38° 04' 10" by West Longitude 83° 04' 35".

Appalachian Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Sandy Hook cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Sandy Hook cell site's construction is exempt from local zoning ordinances; however, Appalachian Cellular notified the Elliott County Judge/Executive of the pending construction. Appalachian Cellular has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Sandy Hook cell site. Approvals for this site are not required, as the tower height does not exceed 200 feet.

Appalachian Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Sandy Hook cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon

complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Appalachian Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Appalachian Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Appalachian Cellular should be granted a Certificate of Public Convenience and Necessity to construct and operate the Sandy Hook cell site in RSA No. 9 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Appalachian Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Sandy Hook cell site.

2. Appalachian Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 20th day of July, 1995.

PUBLIC SERVICE COMMISSION

S. L. I. Davis
Chairman

Robert M. Davis
Vice Chairman

Amelia A. Brantley
Commissioner

ATTEST:

Don Mills
Executive Director